

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DONNY JOEL HARVEY, #297949

§

VS.

§

CIVIL ACTION NO. 6:07cv420

DIRECTOR, TDCJ-CID

§

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge John D. Love. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of this case. The Report recommended that this Court dismiss the Petition because Petitioner did not exhaust his state court remedies.

Petitioner filed objections to the Report. This Court made a *de novo* review of the objections and determined that they lack merit. If the state court has not yet rendered a decision, then Petitioner's state court remedies are not yet exhausted. This Court finds that the Magistrate Judge's findings and conclusions are correct, and adopts them as the Court's findings and conclusions. The Court therefore

ORDERS, ADJUDGES, and DECREES that this action is **DISMISSED** without prejudice;
and

ORDERS that all motions not previously ruled on are denied.

So ORDERED and SIGNED this 28th day of April, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**